

By: Laubenberg, Rodriguez, Gutierrez,
Leibowitz, et al.

H.B. No. 853

A BILL TO BE ENTITLED

1 AN ACT

2 relating to inclusion of pets and other companion animals in
3 protective orders; providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 85.021, Family Code, is amended to read
6 as follows:

7 Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY PARTY.

8 In a protective order, the court may:

9 (1) prohibit a party from:

10 (A) removing a child who is a member of the family
11 or household from:

12 (i) the possession of a person named in the
13 order; or

14 (ii) the jurisdiction of the court; ~~or~~

15 (B) transferring, encumbering, or otherwise
16 disposing of property, other than in the ordinary course of
17 business, that is mutually owned or leased by the parties; or

18 (C) removing a pet, companion animal, or
19 assistance animal, as defined by Section 121.002, Human Resources
20 Code, from the possession of a person named in the order;

21 (2) grant exclusive possession of a residence to a
22 party and, if appropriate, direct one or more parties to vacate the
23 residence if the residence:

24 (A) is jointly owned or leased by the party

1 receiving exclusive possession and a party being denied possession;

2 (B) is owned or leased by the party retaining
3 possession; or

4 (C) is owned or leased by the party being denied
5 possession and that party has an obligation to support the party or
6 a child of the party granted possession of the residence;

7 (3) provide for the possession of and access to a child
8 of a party if the person receiving possession of or access to the
9 child is a parent of the child;

10 (4) require the payment of support for a party or for a
11 child of a party if the person required to make the payment has an
12 obligation to support the other party or the child; or

13 (5) award to a party the use and possession of
14 specified property that is community property or jointly owned or
15 leased property.

16 SECTION 2. Section 85.022(b), Family Code, as amended by
17 Chapters 23 (S.B. 199) and 91 (S.B. 68), Acts of the 77th
18 Legislature, Regular Session, 2001, is amended to read as follows:

19 (b) In a protective order, the court may prohibit the person
20 found to have committed family violence from:

21 (1) committing family violence;

22 (2) communicating:

23 (A) directly with a person protected by an order
24 or a member of the family or household of a person protected by an
25 order, in a threatening or harassing manner;

26 (B) a threat through any person to a person
27 protected by an order or a member of the family or household of a

1 person protected by an order; and

2 (C) if the court finds good cause, in any manner
3 with a person protected by an order or a member of the family or
4 household of a person protected by an order, except through the
5 party's attorney or a person appointed by the court;

6 (3) going to or near the residence or place of
7 employment or business of a person protected by an order or a member
8 of the family or household of a person protected by an order;

9 (4) going to or near the residence, child-care
10 facility, or school a child protected under the order normally
11 attends or in which the child normally resides;

12 (5) engaging in conduct directed specifically toward a
13 person who is a person protected by an order or a member of the
14 family or household of a person protected by an order, including
15 following the person, that is reasonably likely to harass, annoy,
16 alarm, abuse, torment, or embarrass the person; ~~and~~

17 (6) possessing a firearm, unless the person is a peace
18 officer, as defined by Section 1.07, Penal Code, actively engaged
19 in employment as a sworn, full-time paid employee of a state agency
20 or political subdivision; and

21 (7) harming, threatening, or interfering with the
22 care, custody, or control of a pet, companion animal, or assistance
23 animal, as defined by Section 121.002, Human Resources Code, that
24 is possessed by a person protected by an order or by a member of the
25 family or household of a person protected by an order.

26 SECTION 3. Section 25.07(a), Penal Code, as amended by
27 Chapters 66 (S.B. 584) and 1113 (H.B. 3692), Acts of the 80th

1 Legislature, Regular Session, 2007, is reenacted and amended to
2 read as follows:

3 (a) A person commits an offense if, in violation of a
4 condition of bond set in a family violence case and related to the
5 safety of the victim or the safety of the community, an order issued
6 under Article 17.292, Code of Criminal Procedure, an order issued
7 under Section 6.504, Family Code, Chapter 83, Family Code, if the
8 temporary ex parte order has been served on the person, or Chapter
9 85, Family Code, or an order issued by another jurisdiction as
10 provided by Chapter 88, Family Code, the person knowingly or
11 intentionally:

12 (1) commits family violence or an act in furtherance
13 of an offense under Section 22.011, 22.021, or 42.072;

14 (2) communicates:

15 (A) directly with a protected individual or a
16 member of the family or household in a threatening or harassing
17 manner;

18 (B) a threat through any person to a protected
19 individual or a member of the family or household; or

20 (C) in any manner with the protected individual
21 or a member of the family or household except through the person's
22 attorney or a person appointed by the court, if the violation is of
23 an order described by this subsection and the order prohibits any
24 communication with a protected individual or a member of the family
25 or household;

26 (3) goes to or near any of the following places as
27 specifically described in the order or condition of bond:

1 (A) the residence or place of employment or
2 business of a protected individual or a member of the family or
3 household; or

4 (B) any child care facility, residence, or school
5 where a child protected by the order or condition of bond normally
6 resides or attends; ~~or~~

7 (4) possesses a firearm; or

8 (5) harms, threatens, or interferes with the care,
9 custody, or control of a pet, companion animal, or assistance
10 animal that is possessed by a person protected by the order.

11 SECTION 4. Section 25.07(b), Penal Code, is amended by
12 adding Subdivision (3) to read as follows:

13 (3) "Assistance animal" has the meaning assigned by
14 Section 121.002, Human Resources Code.

15 SECTION 5. This Act takes effect September 1, 2009.